

REMARKS

Claims 1-6, 11-17, 19-31, 34-36, 38-39, 41, and 43-45 are pending in this application. Claims 1-6, 11-17, 19-31, 34-36, 38-39, 41, 43-45 are rejected. Claims 1-3, 5-6, 14-17, 30-31, 34, and 43 are currently amended. Claims 4, 7-10, 13, 18-29, 32-33, 35-42, 44-49 are canceled (some of which were previously canceled). Review and reconsideration is respectfully requested in view of the preceding Amendments and following remarks.

Claim Rejection under 35 USC § 112, paragraph 1

In the Final Office Action, claims 1, 19, and 29 were listed as being rejected for insufficient antecedent basis for “said crease.” However, Applicant spoke with Examiner Katcoff by telephone on August 18 and the Examiner agreed that there was sufficient antecedent basis for “said crease.”

Claim Rejections under 35 USC § 103(a)

Certain of the claims are canceled herein without prejudice toward the possible filing of a continuation or divisional application. Rejections of the remaining claims are addressed below. Claim 1 is currently the only independent claim.

Claims 1-6, 11-17, 19-26, 28-31, 35-36, 39, and 43-45 are rejected under 35 USC § 103(a) as allegedly defining obvious subject matter over U.S. Pat. No. 4,614,450 to Neiman in view of U.S. Pat. No. 5,080,223 to Mitsuyama, and further in view of U.S. Pat. No. 4,345,394 to Sullivan and U.S. Pat. No. 2,333,798 to Kner.

“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” See, M.P.E.P. § 2143.03 (*citing, In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)*). Claim 1 recites, in part, “said slit edge defines a lip having a crease and a tip, the tip pivotable about the crease, the tip bent outwardly about the crease such that the tip of the lip forms an angle with the plane to guide the flap under the slit edge when said flap is moved to said closed position.” Support is found in the Specification at

paragraph [0018], sentence 4 which recites “slit or slit edge 45, 46” and paragraph [0020] which recites “The slits 45, 46 of the pockets 15, 16 define a lip 51 having a crease 53 and a tip 54. The tip 54 of the lip 51 is pivotable about at the crease 53. The tip 54 may be bent outwardly about the crease 53 such that the tip 54 or edge of the lip 51 forms an angle 52 (see Fig. 6) with the plane or main body of the pockets 15, 20. The outwardly-bent nature of the lip 51 helps to guide the distal ends 48, 49 of the flaps under the slit edges 45, 46 to thereby allow the flaps 35, 36 to easily be inserted under the slit edges 45, 46.”

The Final Office Action, and the Advisory Action, both assert that Kner (on page 2, column 2, lines 13-22) discloses the slit edge is pivotable about a crease. Applicant respectfully disagrees. The cited excerpt from Kner reads as follows: “The front panel 2 is provided with a substantially centrally disposed arcuate or crescent shaped slot or slit 23 which at its upper edge may be widened as at 24 for finger nail or tip insertion for opening the slit and each of the side flaps 8 and 10 is provided with an opening 25 each adapted fully to register with the other and with slit or slot 23 when the flaps are folded over one another and across the outside face of front panel 2, as shown in Fig. 1.” Applicant respectfully requests that Examiner identify the “crease” about which Kner’s slit edge is pivotable. Applicant submits that Kner does not disclose such a crease. For this reason Kner does not disclose the recitation which is included in Claim 1.

At least for these reasons, Claim 1 is not obvious in view of Neiman, Mitsuyama, Sullivan and Kner. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of claim 1.

The other rejected claims depend from independent claim 1. As dependent claims of non-obvious independent claims, these claims are also non-obvious. See, M.P.E.P. §2143.03 (*citing, In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)*) (“If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.”)). Applicant respectfully requests withdrawal of the obviousness rejection of claims 2-3, 5-6, 11-12, 14-17, 30-31, 34, and 43. The rejection of claims 4, 13, 19-26, 28-29, 35-36, 39, and 44-45 is moot in view of their cancellation.

Claims 34, 38 and 41 rejected under 35 U.S.C. 1 03(a) as being unpatentable over Neiman in view of Mitsuyama, Sullivan and Kner as applied above and in further view of U.S.

Patent No. 6,652,178 to Walton (Walton). As discussed above, claim 1 is not obvious. Claim 34 depends from independent claim 1 and is therefore also non-obvious. Applicant respectfully requests withdrawal of the obviousness rejection of claim 34 over Neiman in view of Mitsuyama, Sullivan, Kner, and Walton. The rejection of claims 38 and 41 is moot in view of their cancellation.

Claims 1, 19, 29, 34, 38 and 41 are rejected under 35 U.S.C. 1 03(a) as being unpatentable over Walton in view of Mitsuyama, Sullivan and Kner. As noted above, claim 1 recites, in part, “said slit edge defines a lip having a crease and a tip, the tip pivotable about the crease, the tip bent outwardly about the crease such that the tip of the lip forms an angle with the plane to guide the flap under the slit edge when said flap is moved to said closed position.”

Walton, Mitsuyama, Sullivan and Kner fail to teach or suggest such recitations. Therefore claim 1 is not obvious in view of these references. Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of claim 1 in view of Walton, Mitsuyama, Sullivan, and Kner. Claim 34 depend from non-obvious independent claim 1 and is therefore also non-obvious. Applicant respectfully requests withdrawal of the obviousness rejection of claim 34 over Walton in view of Mitsuyama, Sullivan, and Kner. The rejection of claims 19, 29, 38 and 41 is moot in view of their cancellation.

CONCLUSION

Claims 1-3, 5-6, 11-12, 14-17, 30-31, 34, and 43 are believed to be in condition for allowance, and an early notice thereof is respectfully requested. Should the Examiner determine that additional issues exist which might be resolved by a telephone conference, they are respectfully invited to contact the Applicant's undersigned representative.

The Commissioner is hereby authorized to charge any additional fees required, including any fee for an extension of time, or to credit any overpayment to Deposit Account 13-2500. The applicant(s) hereby authorizes the Commissioner under 37 C.F.R. §1.136(a)(3) to treat any paper that is filed in this Application which requires an extension of time as incorporating a request for such an extension. Applicant is a large entity.

Respectfully submitted,

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